

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

|                            |   |           |
|----------------------------|---|-----------|
| UNITED STATES OF AMERICA,  | ) |           |
|                            | ) |           |
| Plaintiff,                 | ) | 8:06CR236 |
|                            | ) |           |
| v.                         | ) |           |
|                            | ) |           |
| REFUGIO GUTIERREZ-CENTENO, | ) | ORDER     |
|                            | ) |           |
| Defendant.                 | ) |           |
|                            | ) |           |

This matter comes on before the Court upon the motion and brief (Filing No. 24) for return of seized and forfeited 1996 Infinity automobile filed by Roselia Gutierrez De Alvarez, the United States' response thereto (Filing No. 41), and the United States' motion for final order of forfeiture and return of property (Filing No. 42). Also pending is a motion and brief filed by the defendant (Filing No. 25) seeking return of funds in the amount of \$1,100.00. At the sentencing hearing held on March 8, 2007, the Court advised counsel and the defendant that the defendant's motion (Filing No. 25) would be overruled because the plea agreement specifically provided that he would forfeit said funds to the government. The Court finds as follows:

1. Roselia Gutierrez De Alvarez is the title holder of a 1996 Infinity, VIN JNKCA21D6TT309531. The United States represents this vehicle is currently in the possession of the Bureau of Alcohol, Tobacco and Firearms. The United States also represents this vehicle should be returned to Roselia Gutierrez De Alvarez.
2. On December 11, 2006, the Court entered an Amended Preliminary Order of Forfeiture pursuant to the provisions of Title 21, United States Code, Sections 846 and 853, based upon the defendant's plea of guilty to Counts I and III of the Indictment filed herein.

Pursuant to the Plea Agreement, the defendant also agreed to forfeiture \$1,100.00 in United States currency seized from the defendant on June 27, 2006. By way of said Amended Preliminary Order of Forfeiture, the defendant's interest in a 1996 Infinity, VIN JNKCA21D6TT309531, and \$1,100.00 in United States currency was forfeited to the United States.

5. On December 28, 2006, January 4 and 11, 2007, the United States published in a newspaper of general circulation notice of this forfeiture and of the intent of the United States to dispose of the properties in accordance with the law, and further notifying all third parties of their right to petition the Court within the stated period of time for a hearing to adjudicate the validity of their alleged legal interest(s) in said properties. An Affidavit of Publication was filed herein on March 9, 2007 (Filing No. 38). Upon review of the Court file, Roselia Gutierrez De Alvarez is the only individual who filed a Motion in response to the United States' publication.

6. Plaintiff's motion for final order of forfeiture and return of property should be sustained.

IT IS ORDERED:

- A. Defendant's motion for return of property (Filing No. 25) is denied.
- B. Plaintiff's motion for final order of forfeiture and return of property is hereby sustained.
- C. The Bureau of Alcohol, Tobacco and Firearms shall deliver the 1996 Infinity four-door sedan, VIN JNKCA21D6TT309531, to Roselia Gutierrez De Alvarez, and shall make said delivery without delay.

D. Upon Roselia Gutierrez De Alvarez's receipt of the vehicle, she shall execute and file a Receipt so indicating.

E. All right, title and interest in and to the \$1,100.00 in United States currency, held by any person or entity, is hereby forever barred and foreclosed.

F. The \$1,100.00 in United States currency be, and the same hereby is, forfeited to the United States of America .

G. The Bureau of Alcohol, Tobacco and Firearms for the District of Nebraska is directed to dispose of the \$1,100.00 in United States currency in accordance with law.

DATED this 24th day of April, 2007.

BY THE COURT:

/s/ Lyle E. Strom

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LYLE E. STROM, Senior Judge  
United States District Court